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 CRAIG YATES
 and DISABILITY RIGHTS
 ENFORCEMENT, EDUCATION,
 SERVICES: HELPING YOU
 HELP OTHERS

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES, an individual; and
 DISABILITY RIGHTS ENFORCEMENT,
 EDUCATION, SERVICES: HELPING
 YOU HELP OTHERS, a California public
 benefit corporation,
 Plaintiffs,
 v.
 WINTER PROPERTIES a general
 California partnership; ANDRADE LUZ
 BEATRICE and ARMANDO ROBLES
 CORONEL, individuals dba TAQUERIA
 EL CORONEL,
 Defendants.

CASE NO. C07-2657-JL

**JOINT CASE MANAGEMENT
 STATEMENT**

Date: May 7, 2008
Time: 10:30 a.m.
Judge: Hon. Larson
Courtroom: F, 15th Floor
 450 Golden Gate Avenue
 19th Floor
 San Francisco, CA
Telephone: (415) 522-2046

The parties to the above-captioned action jointly submit this Case Management Statement.

1. JURISDICTION, VENUE & SERVICE

Jurisdiction: This Court has jurisdiction of this action pursuant to 28 U.S.C. §1331 for claims of violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.* Pursuant to supplemental jurisdiction, attendant and related causes of action, arising from the same nucleus of operative facts and arising out of the same transactions, are also brought under parallel California law, whose goals are closely tied with the ADA, including but not

1 limited to claims of violations of California Civil Code §51, *et seq.* and § 54, *et seq.*,
 2 California Health & Safety Code §19955 *et seq.*, including §19959; and Title 24, California
 3 Building Standards Code.

4 **Venue:** Venue is proper in this court pursuant to 28 U.S.C. §1391(b) and is founded
 5 on the facts that the real property which is the subject of this action is located in this district
 6 at/near Sebastopol, California, and that plaintiffs' causes of action arose in this district.

7 **Status of Service of Process:**

8 All parties to the action have been served.

9 **2. BRIEF DESCRIPTION OF CASE/FACTS**

10 This is an action brought by plaintiffs for discrimination based upon the defendants'
 11 alleged failure to comply with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.
 12 §12101, *et seq.*, the Unruh Civil Rights Act, Cal. Civ. Code §§51 and 51.5, California Health
 13 & Safety Code §19955, *et seq.*, and the California Disabled Persons Act, Cal. Civ. Code
 14 §§54, 54.1 and 54.3, all of which relate to the denial of access to a place of public
 15 accommodation.

16 Plaintiff Craig Yates is a person with a disability. Plaintiff visited Taqueria El
 17 Coronel, a place of public accommodation, on several occasions. While at Taqueria El
 18 Coronel, plaintiff allegedly encountered several architectural barriers to access, including a
 19 lack of proper accessibility signage identifying accessible facilities and accommodations, lack
 20 of proper disabled accessible parking, a lack of an accessible path of travel to the accessible
 21 facilities and accommodations, and lack of accessible men and women's restrooms. Plaintiffs
 22 allege that the existence of these architectural barriers constitutes violations of plaintiffs' civil
 23 rights under federal and state law, and caused plaintiff Craig Yates to suffer actual harm at the
 24 hands of defendants.

25 **3. PRINCIPAL LEGAL ISSUES IN DISPUTE**

- 26 a. whether architectural barriers existed and/or continue to exist at Taqueria El
 27 Coronel which denied access to persons with disabilities;
 28 b. whether the removal of architectural barriers was/is readily achievable;

1 c. whether defendants made alterations and modifications to Taqueria El Coronel
2 which trigger compliance with certain State and federal disability access
3 standards; and

4 d. whether and to what extent plaintiff Craig Yates suffered actual damages at the
5 hands of defendants.

6 **4. MOTIONS**

7 If settlement efforts are unsuccessful, plaintiffs anticipate bringing a motion for
8 summary judgment on this issue of defendants' liability.

9 Defendants anticipate bringing a motion for summary judgment on the issue 3(c) above.

10 **5. AMENDMENT OF PLEADINGS**

11 Plaintiffs will amend the complaint to add additional visits by plaintiff Craig Yates to
12 the subject public accommodation.

13 Defendants may oppose plaintiffs' application to amend.

14 **6. EVIDENCE PRESERVATION**

15 No issues anticipated.

16 **7. DISCLOSURES**

17 Plaintiffs served their initial disclosures of evidence pursuant to Fed. R. Civ. P. 26
18 August 14, 2007. These disclosures included identification of known percipient witnesses, and
19 production of receipts from the subject public accommodation, pre-filing correspondence from
20 plaintiff Craig Yates to the manager of El Coronel.

21 Defendants have disclosed known witnesses and know of no pertinent documents at this
22 time.

23 **8. DISCOVERY**

24 The parties request that the permissible number of interrogatories be increased to fifty
25 (50) per party. Discovery shall otherwise be conducted pursuant to the limitations set-forth in
26 the Federal Rules of Civil Procedure.

27 **9. CLASS ACTION**

28 Not Applicable.

10. RELATED CASES

None.

11. RELIEF

Plaintiffs seek injunctive relief to compel defendants to make their public accommodation accessible pursuant to ADAAG or Title 24, whichever is more restrictive, and to further maintain access in the future. Plaintiffs also seek actual and statutory damages and attorneys' fees, including litigation expenses and costs.

12. SETTLEMENT/ADR

The ADR process to which the parties jointly request referral is court-sponsored mediation.

13. MAGISTRATE JUDGE TRIALS

The parties consent to a Magistrate Judge for trial purposes.

14. OTHER REFERENCES

Not applicable.

15. NARROWING OF ISSUES

Plaintiffs believe that the issue of defendants' liability can be decided on motion to the Court.

16. EXPEDITED SCHEDULE

Not applicable.

17. SCHEDULING

Disclosure of Expert Witness: September 12, 2008

Discovery Cut-off: December 19, 2008

Last Day to Hear Motions: February 11, 2009

Final Pretrial Conference: March 25, 2009

Trial Date: May 6, 2009

18. TRIAL

Anticipated length of trial: 4 days

Type of trial: X jury court

1 **19. NON-PARTY INTERESTED PERSONS**

2 The parties are unaware of any non-party interested persons or entities.

3 **20. OTHER MATTERS**

4 None.

5
6 Dated: April 30, 2008

THOMAS E. FRANKOVICH
A PROFESSIONAL LAW CORPORATION

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8 By: /s/
Thomas E. Frankovich
9 Attorneys for Plaintiffs CRAIG YATES and
10 DISABILITY RIGHTS ENFORCEMENT,
EDUCATION SERVICES

11 Dated: April 30, 2008

MARVIN PEDERSON, Attorney at Law

12
13 By: /s/
Marvin Pederson
14 Attorneys for Defendants WINTER PROPERTIES
15 a general California partnership; ANDRADE LUZ
16 BEATRICE and ARMANDO ROBLES
CORONEL, individuals dba TAQUERIA EL
CORONEL